

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

William Branch	:	
Plaintiff	:	
	:	No. 1:CV 00-1728
v.	:	
	:	
CO Russian, et al.	:	(Judge Conner)
Defendants	:	(Electronically Filed)
	:	

**DEFENDANTS' BRIEF IN OPPOSITION TO PLAINTIFF'S
MOTION FOR DISCOVERY OR TO COMPEL DISCOVERY**

Plaintiff, William Branch, has asked the Court to allow discovery or, in the alternative, to compel the defendants to provide him with information in their possession. However, Branch has not complied with the local rules governing discovery, identified the discovery to which he feels he is entitled or provided any information that would permit a determination of how the discovery at issue is either relevant or necessary to enable him to prepare for trial; therefore, his motion should be denied.

Branch argues in the brief in support of his motion that he is entitled to some undefined relief because the defendants have not cooperated in discovery. However, Branch has failed to comply with Middle District Local Rule 26.3 which requires the party in a discovery motion to confer with "counsel for the opposing party in a good faith effort to resolve by agreement the issues raised in the motion

without the intervention of the court” before filing the motion and then file with the motion a statement certifying that the conference has occurred. *See* M.D.L.R. 26.3 Branch’s motion could be denied for this failure alone.

In addition, Branch failed to attach to either his motion or brief a copy of the discovery he proposes or has attempted to serve upon the defendants. He also failed to provide any information in his motion or brief describing the information he is seeking to obtain through discovery. As a consequence, counsel for the defendants does not know whether the information sought is relevant to Branch’s claims or necessary to enable him to prepare for any trial that might be necessary following the disposition of defendants’ motion for summary judgment. Indeed, no such determination is possible from the materials Branch has presented to the Court.

It is the moving party’s responsibility to present the information necessary for the Court to evaluate his request for relief. This responsibility is a basic one and is not excused for *pro se* prisoners. Branch has not satisfied his responsibility in this instance.

For these reasons, Branch's motion for discovery or to compel discovery should be denied.

Respectfully submitted,

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Dated: February 11, 2004

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CERTIFICATE OF SERVICE

I, **GWENDOLYN T. MOSLEY**, Senior Deputy Attorney General
for the Commonwealth of Pennsylvania, Office of Attorney General, hereby certify
that on **February 11, 2004**, I caused to be served a true and correct copy of the
foregoing document **Defendants' Brief in Opposition to Plaintiff's Motion for
Discovery or to Compel Discovery** by depositing it in the United States mail,
first-class postage prepaid to the following:

William Branch, CF-3756
SCI-Waymart
P.O. Box 256
Waymart, PA 18472

s/Gwendolyn T. Mosley
GWENDOLYN T. MOSLEY
Senior Deputy Attorney General